

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

LIANG CHEN, DONALD OLGADO, WEI-
YUNG HSU, and ROBERT EWALD,

Defendants.

Case No. 17-cr-00603-BLF

**ORDER GRANTING MOTION TO
SEAL**

[Re: ECF Nos. 497, 501]

On November 1, 2022, Defendant Donald Olgado filed a motion for leave to file under seal portions of his sentencing memorandum that included information that non-party Applied Materials, Inc. (“Applied”) had designated as confidential. ECF No. 497. On November 7, 2022, Applied filed a motion to seal a subset of the documents identified by Olgado. ECF No. 501 (“Motion”). Applied contends that these documents include Trial Exhibits 70, 181, 573, and 574, which the Court previously ordered to be sealed. *See id.*; *see also* ECF No. 461 (“Order”) at 5.

Based on the below reasoning, the Court GRANTS Applied’s sealing motion.

I. LEGAL STANDARD

“Historically, courts have recognized a ‘general right to inspect and copy public records and documents, including judicial records and documents.’” *Kamakana v. City and Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 597 & n.7 (1978)). Consequently, filings that are “more than tangentially related to the merits of a case” may be sealed only upon a showing of “compelling reasons” for sealing. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101–02 (9th Cir. 2016). Filings that are only tangentially related to the merits may be sealed upon a lesser showing of “good cause.” *Id.* at

1097. Trial records, of course, are “more than tangentially related to the merits of a case” and are thus subject to the “compelling reasons” standard. *See In re Elec. Arts, Inc.*, 298 F. App’x 568, 569 (9th Cir. 2008); *United States v. Carpenter*, 923 F.3d 1172, 1178–79 (9th Cir. 2019).

II. DISCUSSION

Applied seeks to seal highlighted portions of Exhibit 1 to the Declaration of Avi Tepman in Support of Donald Olgado’s sentencing memorandum, filed at ECF No. 497-7, for the same reasons the Court previously granted Applied’s sealing motion as to Trial Exhibits 70, 181, 573, and 574. *See* Motion. Exhibit 1 to the Declaration includes images from trial exhibits 70, 181, 257, 573, and 574. ECF No. 497-6 (“Tepman Decl.”) ¶ 13. Applied seeks to seal the images from trial exhibits 70, 181, 573, and 574. *See* ECF No. 501-3 (highlighted version of Exhibit 1).

On July 14, 2022, the Court issued an omnibus order on various sealing motions. *See* Order. Regarding Trial Exhibits 70, 181, 573, and 574, the Court found that Applied had shown “compelling reasons” supporting sealing, because the Court had found in its order on the motions for reconsideration that there was sufficient evidence for a reasonable juror to conclude beyond a reasonable doubt that the charged trade secrets underlying counts 2–12 were trade secrets in 2012. *See id.* at 2. Further, the Court found that Applied had submitted sufficient evidence to show that even today, disclosure of the information at issue in Trial Exhibits 70, 181, 573, and 574 would harm Applied’s competitive standing. *See id.* at 2–3.

Based on the above reasoning and the Court’s sealing order at ECF No. 461, the Court finds that Applied has shown compelling reasons for sealing the highlighted information Exhibit 1 to the Tepman Declaration. *See* ECF No. 501-3 (highlighted version of Exhibit 1).

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III. ORDER

For the foregoing reasons, the Court rules on Applied's sealing requests as stated below. Donald Olgado SHALL refile his Sentencing Memorandum at ECF No. 497 in compliance with this Order by November 22, 2022.

Filing	Portions Sought to Be Sealed	Ruling
ECF No. 497-7	Highlighted portions identified in ECF No. 501-3	GRANTED, per the Court's order at ECF No. 461

Dated: November 16, 2022



BETH LABSON FREEMAN
United States District Judge